

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
ALEX M. AZAR, in his official capacity as
the Secretary of the United States
Department of Health and Human Services,

Defendants.

NO. 2:20-cv-01105

DECLARATION OF
BRANDON KNOX

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I, BRANDON KNOX, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

1. I am over the age of 18, have personal knowledge of the facts and circumstances in this Declaration, and am competent to testify in this matter.

2. I am currently a Program Director at Lambert House, an agency dedicated to building community and strengthening supports for Washington's LGBTQ youth. Lambert House empowers LGBTQ youth through the development of leadership, social, and life skills.

3. Lambert House has been supporting LGBTQ Youth in Washington since the 1980s and was the first independent, self-sustaining LGBTQ youth organization in the world to receive IRS tax-exempt designation in 1981. Lambert House is the one social service agency in the greater Seattle area dedicated solely to LGBTQ youth.

4. I previously served as a Faculty Advisor for the LGBTQ Student Club while on the staff at Central Washington University. I served in that capacity for three years.

5. I received my bachelor's degree from the University of Washington and studied Educational Leadership at the University of Nevada, Reno.

6. In my role as Program Director at Lambert House, the LGBTQ youth we serve have shared stories of discrimination in healthcare.

7. Many of the transgender youth we serve are uncomfortable in medical settings because they are often misgendered, not addressed by their preferred pronouns, and not addressed by their chosen name (aligned with their gender identity). These microaggressions are particularly harmful to young people.

8. I am also a gay man. As such, I have personal experience with the barriers to adequate and non-discriminatory healthcare by members of the LGBTQ community. Because

1 of the explicit and implicit biases against LGBTQ people within the healthcare setting,
2 accessing care is often anxiety producing.

3 9. One interaction I experienced stands out as particularly uncomfortable and
4 inappropriate. In 2013 I was living in Ellensburg Washington and through my insurance I had
5 to establish my primary care physician at Ellensburg Family Health Care. During that year I
6 became very ill and after a week I went to see my doctor, who ordered a number of tests,
7 including for flu and strep. Both tests came back negative and my doctor advised that if I did
8 not improve that I should come back in three to four days.

9 10. After no improvement, I went in for a second appointment. I was exhausted,
10 achy, feverish, congested, and had a raw sore throat. My doctor asked if I was sexually active,
11 and I said yes. He asked, "with a woman?" I said, "with a man." I observed my doctor tense and
12 he looked very uncomfortable. He stated that, "in order to provide you with the best medical
13 care, we're going to need to test you for STDs."

14 11. The doctor did not follow up that statement with questions about my sexual
15 practices, my partner, or anything that would have been appropriate protocol if an STD was
16 suspected.

17 12. I was very uncomfortable with the medical advice and felt certain that the doctor
18 recommended these tests because I am a gay man, not because my symptoms presented that
19 they were medically necessary.

20 13. After arranging for the tests, the doctor advised that it was not his practice to
21 give results over the phone and that I would get a call when they were ready so I could come in
22 to discuss them. It felt as though he assumed there would be positive results. The doctor then
23 advised the following; "my only medical advice for you is to stay away from the dirty nasties."
24 I was shocked that those words came out of the mouth of a doctor. I was already feeling terrible
25 because I was so sick, but the doctor's behavior made me feel worse.
26

1 14. A few days later I got a call from the doctor advising me that the results were
2 negative. The fact that the doctor gave me results over the phone, after telling me that I would
3 have to come in to discuss them, further revealed his assumption that they were going to be
4 positive.

5 15. After that experience at the clinic in Ellensburg, I was not comfortable
6 continuing my healthcare there. Unfortunately, it was the only clinic that was in-network with
7 my insurance plan so I put off routine medical appointments and had to seek future serious
8 medical care at an urgent care clinic in Cle Elum, which was 30 minutes away.

9 16. My experience underscores the fact that discrimination against LGBTQ
10 individuals in healthcare exists in Washington and its impact is harmful.

11 17. The protections from discrimination against LGBTQ people in healthcare that
12 were included in Section 1557 of the Affordable Care Act (“ACA”), published by the U.S.
13 Department of Health and Human Services (“HHS”) in 2016 (the Final Rule) were designed to
14 protect my community from the kind of treatment I received in 2013.

15 18. I understand that the Federal Department of Health and Human Services (HHS)
16 has issued a new regulation entitled “Nondiscrimination in Health and Health Education
17 Programs or Activities, Delegation of Authority,” 85 Fed. Reg. 37160-248 (the “Final Rule”),
18 which was published in the Federal Register on June 19, 2020. I understand that the Final Rule
19 specifically rolls back protection from healthcare discrimination on the basis of sexual
20 orientation and gender identity or transgender status. I am concerned that this rollback of
21 protections will result in more LGBTQ individuals experiencing the kind of discrimination and
22 inadequate healthcare I experienced.

23 19. Based on my experiences as a gay man in Washington State, as well as what I
24 have learned from the youth that I serve, friends and colleagues, I am concerned that the Final
25 Rule creates more barriers to appropriate healthcare for LGBTQ Washingtonians. The harmful
26 impacts of those barriers will be pronounced in rural areas like Ellensburg where healthcare

1 options are limited. LGBTQ individuals who experience bias and inappropriate care will have
2 to travel further, at greater cost and inconvenience to receive culturally competent care, and it
3 is likely that a significant number of individuals will postpone healthcare services for that
4 reason, leading to negative health outcomes.

5 I declare under penalty of perjury under the laws of the United States and the State of
6 Washington that the foregoing is true and accurate.

7
8 DATED this 14th day of July, 2020, in Seattle, Washington

9
10 
11 BRANDON KNOX